

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF INTEGRATED RESOURCE)
PLANNING FOR THE PROVISION OF)
STANDARD OFFER SUPPLY SERVICE BY)
DELMARVA POWER & LIGHT COMPANY UNDER)
26 DEL. C. § 1007(c) & (d): REVIEW) PSC DOCKET NO. 07-20
OF INITIAL RESOURCE PLAN SUBMITTED)
DECEMBER 1, 2006)

Petition for Interlocutory Review of Request to Delay a Portion of Delmarva Power's Land-Based Wind RFP

Jeremy Firestone, *Pro Se*
120 Unami Trail
Newark, DE 19711
jf@udel.edu; 302 731-8876 (tel); 302 831-6838 (fax)

Short Statement of the Case

1. On January 24, 2008, I filed Jeremy Firestone's Request to Delay a Portion of Delmarva Power's Land-Based Wind RFP. I sought to delay that portion of the IRP that sought to collaterally attack docket 06-241 (new generation) or in the alternative, to allow discovery into this issue, and to require Delmarva to serve a copy of the land-based wind IRP on the parties.
2. On February 12, 2008, the Hearing Examiner declined to grant the motion finding it "premature" and stating that it "would improperly delve into the Company's business planning process and operations." The Hearing Examiner stated that she could find "no [legal] support" or authority for my claim.

Summary of Position

3. Delmarva Power purpose is not to advance the IRP and systematically evaluate supply options, rather it is using the IRP process to collaterally attack the new generation RFP process. The Commission has supervisory authority over this docket and over Delmarva Power. It should exercise its discretion and limit the land-based wind RFP, which Delmarva is undertaking as part of the present docket to a period of time that does not conflict with the RFP for new generation—that is, Delmarva should only seek land-based wind supply options through 2014.

Grounds Supporting Interlocutory Appeal

4. In the October 22, 2007 letter to the parties, the Hearing Examiner most recently established March 5, 2007 as the deadline for Delmarva Power to submit a revised IRP. The Hearing Examiner also established March 12, 2007 as the date on which a scheduling conference would occur to set the remainder of the schedule in the docket, including discovery.

5. That schedule was established after Delmarva Power had twice requested an extension of time to accommodate the resolution of the RFP for new generation docket, 06-241. See, for example, Delmarva's request of October 17, 2007 (quoting without noting as such and without attribution to its earlier July 11, 2007 request).

The issue of whether Delmarva will have a long term PPA for 200 – 300 megawatts from new wind farm and gas backup generators will be a crucial one to resolve before the IRP can be meaningfully amended. Until the RFP process has concluded, Delmarva will not be in the possession of vital information needed to develop amendments to the IRP.

6. On January 22, 2008, Delmarva Power issued a press release stating that it was seeking bids on land-based wind power (the land-based wind RFP). See Attachment A, original at <http://www.delmarva.com/welcome/news/releases/archives/2008/article.aspx?cid=918>. Despite the press release, on information and belief, the land-based wind RFP has not been issued to date; rather Delmarva intends to issue that RFP on February 18, 2008.
7. The press release stated that: "This request for competitive onshore wind bids is part of Delmarva Power's Integrated Resource Planning process, which began in 2006."
8. The land-based wind farm RFP is a part of this docket by Delmarva's own admission.
9. Because Delmarva neither filed a notice of its intention to undertake a land-based wind RFP as part of the IRP in this docket nor the land-based wind RFP, parties such as myself we were left to learn of Delmarva's action through press reports. See <http://www.delawareonline.com/apps/pbcs.dll/article?AID=2008801230333>.
10. Gary Stockbridge the President of Delmarva Power was clear on the intention behind the land-based wind RFP when he declared in the press release:

We will have the results in hand by March that can be compared to the existing offshore proposal. We expect to see significantly lower costs, the same environmental benefits, far less risk, even more stability than with offshore wind power, and be able to provide this power years ahead of any offshore project.

11. By Delmarva Power's own statements, it is not attempting to advance the IRP' rather it is using the IRP process to collaterally attack the new generation RFP process—the very process whose uncertainty Delmarva previously pointed to as the reason it needed to delay the IRP.
12. The statements contained in the press release are "admissions against interest" made by the President of Delmarva Power. They are thus binding admissions against Delmarva Power.
13. Delmarva's improper purpose is underscored by its decision to publicize its motive for undertaking the land-based wind RFP—that is, to try and undermine the Bluewater Wind PPA before the General Assembly.

14. In “response” to my request, Delmarva did not contest, seek to explain, let alone address substantively its improper motives. Rather, it sought to trivialize its actions by implying that the action complained of was vague and was a mere unsubstantiated assertion on my behalf. “In support of his argument, Dr. Firestone asserts that Delmarva is attempting to somehow “abuse. . . the IRP process” and “attack the RFP.”
15. Neither the PSC Staff nor Senator McDowell, both of whom also opposed my request, addressed Delmarva’s improper motives either.
16. The Synopsis of the original HB6 is indicative of the purpose of the IRP—that is, to “demonstrate how the electric distribution company intends to supply the demand for electricity in its service territory....” As is clear from the admissions of President Stockbridge, Delmarva is not undertaking the land-based wind RFP to demonstrate how it intends to supply electricity, rather it is undertaking that action to undermine the RFP for new generation and the RFP docket.
17. Nor is the land-based wind RFP part of a “systematic[] evaluat[ion of] all available supply options during a 10-year planning period.” Rather, it is symptomatic of Delmarva’s desire to derail a 25-year supply option that is being considered as part of the RFP for new generation docket, 06-241.
18. Earlier in this docket, I filed a request for discovery. On April 4, 2007, Delmarva filed an objection to the discovery request. In pertinent part, Delmarva claimed that the discovery request was not proper because I had “attempted to circumvent the process established in RFP Docket No. 06-241 by using this docket to collect information filed in the RFP Docket.”
19. Later in its Response to my Petition for Interlocutory Review of a Motion to Compel discovery, Delmarva stated that: “Professor Firestone should not be permitted to do an end run around the limitations and process in the RFP Docket through the IRP Docket” May 16, 2007.
20. By earlier ruling, the Commission exercised its discretion and prevented me from engaging in the discovery at that time.
21. Delmarva now seeks to “circumvent the process established in RFP Docket No. 06-241 by using this docket to collect information” in an attempt to undermine the RFP Docket. In other words, it seeks “to do an end run around the limitations and process in the RFP Docket through the IRP Docket.”
22. Contrary to Delmarva’s claim, I do not seek to prevent it from undertaking a land-based wind RFP—that is I do not seek an injunction. Rather, I only seek to prevent Delmarva from undertaking a land-based wind RFP that is part of this docket (as stated in its press release) and that seeks to undermine another docket before the Commission.

23. Under Title 26, Section 201, the Commission has “exclusive original supervision and regulation of all public utilities ... so far as may be necessary for the purpose of carrying out the provisions of this title.”
24. The Commission should now exercise its discretion under this docket, “supervise” Delmarva, and prevent Delmarva from conducting an IRP driven land-based wind RFP that seeks to undermine docket 06-241 at this time.
25. Indeed, Delmarva seeks to have it both ways—I should be prohibited from seeking discovery in the IRP proceeding to the extent my intent is to support the new generation RFP process while it should be free to into use the IRP process to undermine the new generation RFP process.
26. In his May 3, 2007 SEU comments in this docket, Senator McDowell argued that the new generation RFP be deferred until the IRP could be conducted and the load forecasts, and demand-side potential be determined.

We believe that the correct way to go forward is to suspend the current bid evaluation and shelve any plans for re-bidding until the IRP process as applied to a de-regulated wholesale market can be clearly defined and a thorough analysis can be done of load forecasts, demand-side potential and economics

Although I disagreed with the Senator at that time because the four state entities considering the new generation RFP had a non-discretionary duty to undertake the new generation RFP, I share the sentiment in the present context because the land-based wind RFP is not mandated by law.

Wherefore, I respectfully request that this Honorable Commission:

1. Schedule this for Hearing on February 21, 2008
2. Grant this Interlocutory Appeal and Reverse the Senior Hearing Examiner’s ruling.
3. Not reward Delmarva given the improper purpose of its action.
4. Exercise your discretion and prevent Delmarva from conducting an IRP driven land-based wind RFP at this time.
5. In the event the PSC decides to allow Delmarva to proceed with the IRP land-based wind RFP, allow discovery on issues related to the land-based wind RFP at this time.
6. Grant such other relief as is appropriate and just.

Respectfully submitted,



Jeremy Firestone

12 February 2008

Attachment A

Delmarva Power Seeks Onshore Wind Energy Bids

Tuesday, January 22, 2008

Company Soliciting Proposals From Across the Region

NEWARK, DE – Delmarva Power, a subsidiary of Pepco Holdings, Inc. (NYSE: POM), today began seeking bids from onshore wind power providers from across the region in a process to obtain competitively priced renewable energy for its Delaware customers.

Delmarva Power supported state legislation in 2007 requiring that 20 percent of the energy supplied to its customers by 2019 be from renewable sources. Thus far only a long-term offshore wind proposal has been explored to meet this goal. That proposal for a 25-year contract, according to a review by state agencies, would require customers to pay “a 45% premium for offshore wind generation over onshore wind generation.”

Dennis Wraase, Chairman and Chief Executive Officer of Pepco Holdings Inc., sees significant potential benefits for customers. “I look forward to Delmarva Power working with the State of Delaware in becoming leaders in providing customers with this most promising type of renewable energy,” Wraase said. “Onshore wind power presents a great opportunity for the state and the customers of Delmarva Power.”

The first step in this new initiative to best manage consumers’ renewable energy costs is to solicit interest from wind power developers within the region. “We look to buy both renewable energy credits (RECs) and energy for terms from 5 to 25 years,” said Gary Stockbridge, President of Delmarva Power. “We will have results in hand by March that can be compared to the existing offshore proposal. We expect to see significantly lower costs, the same environmental benefits, far less risk, even more stability than with offshore wind power, and be able to provide this power years ahead of any offshore project,” Stockbridge said. This request for competitive onshore wind bids is part of Delmarva Power’s Integrated Resource Planning process, which began in 2006.

In addition to land-based wind, Delmarva Power expects to follow up with requests for proposals from other sources of renewable supply such as solar energy.

###

Delmarva Power, a public utility owned by Pepco Holdings, Inc. (NYSE: POM), provides safe and reliable energy to about 500,000 electric delivery customers in Delaware and Maryland and over 121,000 natural gas delivery customers in northern Delaware.